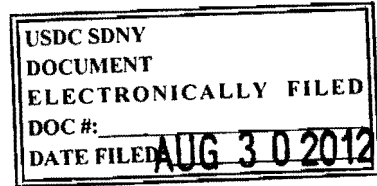


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
:
GEOFFREY OSBERG, on behalf of himself :
and all others similarly situated, :
:
Plaintiffs, :
:
-v- :
:
FOOT LOCKER, INC. and FOOT LOCKER :
RETIREMENT PLAN, :
Defendants. :
-----X

07 Civ. 1358 (KBF)

ORDER

KATHERINE B. FORREST, District Judge:

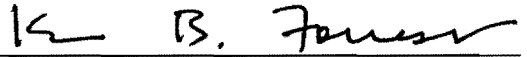
Having reviewed the Plaintiff's correspondence of August 20, 2012 regarding spoliation discovery, the Court ORDERS as follows:

1. Plaintiff's request to require Defendants to complete depositions of the five fact witnesses named in Plaintiff's August 20 letter is GRANTED IN PART and DENIED IN PART. Plaintiffs are permitted up to six hours in total to depose three of the requested fact witnesses.
2. Plaintiff's request to order Defendants to immediately produce to Plaintiff or submit to *in camera* review Proskauer attorneys' and paralegals' timesheets and billing records for the 2006-2010 period bearing on the waived topic is DENIED.

3. Defendants are ordered to submit the internal Proskauer "comprehensive file" for *in camera* review at the same time as their opposition to the spoliation motion.
4. Defendants are ordered to perform one final, good faith search for other documents concerning the waived topic. Defendants must provide a sworn representation to the Court when such a search has been completed.
5. Plaintiff's request for information concerning the specific locations from which documents were collected is DENIED as unduly burdensome.
6. Plaintiff is GRANTED leave to issue a subpoena *duces tecum* to Foot Locker's off-site storage facility, CitiStorage, requesting lists and indices concerning the boxes stored on behalf of Defendants and any and all communications between Foot Locker and/or defense counsel and Citistorage from December 2009 to March 2010.
7. The briefing schedule on any motion for spoliation is set as follows: Plaintiff's opening memorandum is due September 12, 2012. Defendant's opposition is due September 21, 2012. Plaintiff's reply is due September 26, 2012.

SO ORDERED:

Dated: New York, New York
August 30, 2012

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written above a horizontal line.

KATHERINE B. FORREST
United States District Judge